

**ESSB 6239 - H AMD 906**

By Representative Shea

**FAILED 02/08/2012**

1 On page 1, after line 10, insert the following:

2 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes the  
3 preeminent protections of religious freedom in both the federal and  
4 state constitutions and that every person enjoys the secured rights of  
5 freedom of religious exercise, freedom of conscience, and free speech.

6 Article I, section 11 of the Washington state Constitution  
7 provides in pertinent part, "Absolute freedom of conscience in all  
8 matters of religious sentiment, belief and worship, shall be  
9 guaranteed to every individual, and no one shall be molested or  
10 disturbed in person or property on account of religion."

11 Article XXVI of the Washington state Constitution provides in  
12 pertinent part, "The following ordinance shall be irrevocable without  
13 the consent of the United States and the people of this state: First.  
14 That perfect toleration of religious sentiment shall be secured and  
15 that no inhabitant of this state shall ever be molested in person or  
16 property on account of his or her mode of religious worship."

17 The First Clause of the First Amendment of the Bill of Rights to  
18 the United States Constitution provides in pertinent part, "Congress  
19 shall make no law respecting an establishment of religion, or  
20 prohibiting the free exercise thereof."

21 (2) It is the intent of this act to ensure: (a) that all persons  
22 in this state may enjoy the freedom to marry on equal terms; (b) the  
23 religious freedom of clergy and religious institutions to determine  
24 for whom to perform marriage ceremonies and to determine which  
25 marriages to recognize for religious purposes; and (c) the free  
26 exercise of religion and freedom of conscience of all the people of

27

1 the state of Washington based on their sincerely-held religious  
2 beliefs regarding marriage.

3 (3) No official of any religious organization or nonprofit  
4 institution or other person authorized to solemnize marriages may be  
5 required to solemnize any marriage in violation of his or her right to  
6 free exercise of religion guaranteed by the First Amendment to the  
7 United States Constitution or by the Washington state Constitution,  
8 and no individual, private business, or other private entity may be  
9 required to recognize or provide accommodations, facilities, goods or  
10 services for any marriage in violation of his or her right to free  
11 exercise of religion guaranteed by the First Amendment to the United  
12 States Constitution or by the Washington state Constitution."  
13

14 Renumber the remaining sections consecutively and correct any  
15 internal references accordingly.

16  
17 On page 2, beginning on line 3, after "(3)" strike all material  
18 through "(7)" on line 26 and insert the following:

19 "(a) No church, religious denomination, or other religious  
20 organization, or any regularly licensed or ordained minister or any  
21 priest, imam, rabbi, or similar official of any church, religious  
22 denomination, or other religious organization, is required to  
23 solemnize any marriage, or to recognize any marriage solemnized or  
24 otherwise recognized under the laws of this state or any other state.

25 (b) A church, religious denomination, and other religious  
26 organization, and any regularly licensed or ordained minister and any  
27 priest, imam, rabbi, or similar official of any church, religious  
28 denomination, or religious organization, is immune from any civil  
29 claim or cause of action based on a refusal to solemnize any marriage,  
30 or to recognize any marriage solemnized or otherwise recognized under  
31 the laws of this state or any other state.

32 (c) No state or local government, or any agency thereof, may  
33 penalize, withhold benefits from, or refuse to contract with, any  
34 church, religious denomination, or other religious organization, or

1 any nonprofit entity affiliated with a religious organization, based  
2 on the refusal of the church, religious denomination, other religious  
3 organization, or nonprofit entity to solemnize any marriage, or to  
4 recognize any marriage solemnized or otherwise recognized under the  
5 laws of this state or any other state.

6 (d) No judge, justice, or commissioner is required to solemnize  
7 any marriage contrary to his or her sincerely-held religious beliefs  
8 regarding marriage in violation of his or her right to free exercise  
9 of religion guaranteed by the First Amendment to the United States  
10 Constitution or by the Washington state Constitution. A judge,  
11 justice, or commissioner is immune from any civil claim or cause of  
12 action based on a refusal to solemnize any such marriage.

13 (e) The provisions of this subsection (3) shall be broadly  
14 construed.

15 (4)"

16  
17 On page 3, beginning on line 1, after "other" strike all material  
18 through "religion" on line 4 and insert "such entities"

19  
20 On page 3, beginning on line 28, after "(5)" strike all material  
21 through "RCW" on page 4, line 6 and insert the following:

22 "(a) No church, religious denomination, other religious  
23 organization, or any nonprofit entity affiliated with a religious  
24 organization, or any regularly licensed or ordained minister or any  
25 priest, imam, rabbi, or similar official of any church, religious  
26 denomination, or other religious organization, is required to provide  
27 accommodations, facilities, advantages, privileges, services, or goods  
28 related to the solemnization or celebration of a marriage.

29 (b) A church, religious denomination, other religious  
30 organization, or any nonprofit entity affiliated with a religious  
31 organization, or any regularly licensed or ordained minister or any  
32 priest, imam, rabbi, or similar official of any church, religious  
33 denomination, or other religious organization, shall be immune from  
34 any civil claim or cause of action, including a claim pursuant to

1 chapter 49.60 RCW, based on the refusal to provide accommodations,  
2 facilities, advantages, privileges, services, or goods related to the  
3 solemnization or celebration of a marriage.

4 (6)(a) No individual, private business, or other private entity is  
5 required to provide accommodations, facilities, advantages,  
6 privileges, services, or goods related to the solemnization of a  
7 marriage, or otherwise participate in, endorse, facilitate, or  
8 otherwise assist any marriage, marriage ceremony, or marriage  
9 celebration, or any other event or circumstance recognizing any  
10 marriage contrary to the sincerely-held religious beliefs of the  
11 individual or sincerely-held religious practices or policies of the  
12 business or entity, regarding marriage in violation of the right to  
13 free exercise of religion guaranteed by the First Amendment to the  
14 United States Constitution or by the Washington state Constitution.

15 (b) An individual, private business, or other private entity shall  
16 be immune from any civil claim or cause of action, including a claim  
17 pursuant to chapter 49.60 RCW, based on the refusal to provide  
18 accommodations, facilities, advantages, privileges, services, or goods  
19 related to the solemnization of a marriage, or otherwise participate  
20 in, endorse, facilitate, or otherwise assist any marriage, marriage  
21 ceremony or marriage celebration, or other event or circumstance  
22 recognizing any marriage contrary to the sincerely-held religious  
23 beliefs of the individual or sincerely-held religious practices or  
24 policies of the business or entity, regarding marriage in violation  
25 of the right to free exercise of religion guaranteed by the First  
26 Amendment to the United States Constitution or by the Washington state  
27 Constitution"

28  
29 On page 5, beginning on line 11, after "other" strike all material  
30 through "religion" on line 12 and insert "such entities"

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32

EFFECT: Adds an intent section to: (1) include language from  
Article I, Section 11 and Article XXVI of the state constitution and

from the First Amendment of the federal constitution; (2) provide that no official of any religious organization or nonprofit institution or other person authorized to solemnize a marriage may be required to solemnize a marriage in violation of his or her free exercise of religion; and (3) provide that no person or private business or private entity may be required to recognize or provide accommodations, facilities, goods, or services for any marriage in violation of the right to free exercise of religion.

Amends the religious exemption provisions to: (1) provide that religious denominations, religious organizations, and those authorized to solemnize marriages are not required to recognize any marriage solemnized in this or another state; (2) add nonprofit entities to the list of entities with whom the state cannot penalize, withhold benefits from, or refuse to contract with based on the refusal to solemnize a marriage and the refusal to recognize a marriage; and (3) provide that judges and commissioners are not required to solemnize a marriage in violation of their right to free exercise of religion and are immune from any civil cause of action for their refusal.

Provides an exemption and immunity for nonprofit entities affiliated with religious organizations, and individuals, private businesses, and other private entities. Provides that those individuals, businesses, and entities are not required to participate in, endorse, facilitate, or otherwise assist any marriage, marriage ceremony, or marriage celebration, or any other event or circumstance recognizing any marriage contrary to the sincerely-held religious beliefs of the person or sincerely-held religious practices or policies of the business or entity.

Changes the definition of "religious organizations" to include "other such entities" rather than "other entities whose principal purpose is the study, practice, or advancement of religion."

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